

COL. J. M. MARSHALL.

L E T T E R

FROM

THE SECRETARY OF WAR,

TRANSMITTING

DOCUMENTS RELATING TO THE CLAIM OF COL. J. M. MARSHALL.

JANUARY 4, 1904.—Referred to the Committee on Claims and ordered to be printed.

WAR DEPARTMENT,
Washington, December 23, 1903.

SIR: I have the honor to transmit herewith a statement, dated December 10 instant, from the Quartermaster-General of the Army, together with other papers, concerning a disallowance of \$33, made by the Auditor for the War Department on November 3, 1894, against Col. J. M. Marshall, assistant quartermaster-general U. S. Army, and continued to date.

As will be seen from the accompanying copy of House Document No. 261, Fifty-seventh Congress, first session, this matter was presented in January, 1902, favorably recommended, and I now have the honor, in view of all the circumstances, as set forth in the papers, to renew the recommendation that Congress, by appropriate legislation, relieve Colonel Marshall of the above-mentioned charge of \$33.

Very respectfully,

ELIHU ROOT, *Secretary of War.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, December 10, 1903.

SIR: I have the honor to make the following statement concerning a disallowance of \$33 against Col. J. M. Marshall, assistant quartermaster-general, U. S. Army, originally made by the Auditor for the War Department on November 3, 1894, and continued to date.

This amount represents the payment by Colonel Marshall on his voucher 7-B, July, 1893, F. Y. 1894, to Mr. Charles S. Muffy for services in preparing an abstract of title of certain land selected for the military post at Fort Harrison, Mont.

The Auditor's reason for continued disallowance was that the expenses of abstracting and furnishing titles should ir variably be borne by the persons conveying the

land to the United States, but in this particular instance it was stated by Colonel Marshall that the land for the post site was donated to the United States, and for that reason payment for the abstracting of the title could not well be demanded of the donors. Further, that it was under the advice and supervision of the United States district attorney that the abstract was made.

Inasmuch as the Auditor had stated that there was no law by which this disallowed amount could be passed to the credit of the officer, Colonel Marshall requested that Congress be asked to relieve him from this disallowance of \$33.

On his representations this office accordingly recommended to the Secretary of War, on May 2, 1901, favorable consideration of Colonel Marshall's request, and that Congress be asked at its next session to enact a law relieving the officer, he having made the disbursement in question under the orders of his superior officers, and on January 13, 1902, the Secretary of War forwarded the papers in the case to the Speaker of the House of Representatives with a recommendation that appropriate legislation be enacted for the relief of Colonel Marshall.

The communication was referred to the Committee on Claims and ordered to be printed, as evidenced by Public Document No. 261, Fifty-seventh Congress, first session, but no further action has been taken so far as is known to this office.

On May 1, 1903, the Auditor again addressed Colonel Marshall calling attention to certain prior correspondence in which the latter had requested that further action be suspended until Congress had taken definite action on the case, and the Auditor's acquiescence in that request so far as to defer final action until the adjournment of Congress. But as Congress took no action, the Auditor requested that the amount be returned to the Treasury by June 1, 1903, failing in which the Paymaster-General would be requested to withhold the \$33 from his pay.

From this contemplated action Colonel Marshall appealed to this office on May 5 requesting that the protection of the Secretary of War be invoked in his behalf. He stated that although this amount was small he did not feel called upon to make even a small donation to the United States.

In the endeavor to aid the officer and to defer, if possible, the necessity for refundment, this office addressed the Auditor on June 6, 1903, with a succinct statement of the facts in the case and requested that the contemplated request for the withholding of the \$33 from the pay of Colonel Marshall be deferred until the expiration of the coming session of Congress, and that prior to its assemblage this office would request the Secretary of War to repeat and renew his recommendation for favorable action.

To this request the Auditor agreed on June 11, 1903, and accordingly the papers were returned to Colonel Marshall on June 20 informing him of this fact and suggesting that shortly before the date of the assemblage of Congress the Secretary of War be requested, through this office, to renew and supplement his former recommendation of January 13, 1902, for relief.

The present special session of Congress was not considered when the representations of June 6, 1903, were made to the Auditor, but the first regular session of the present Congress. In accordance with the suggestion to Colonel Marshall he has now returned the papers under date of November 20 with request for further action as indicated to him by this office.

It is therefore respectfully recommended that the recommendation of January 13, 1902, to the Speaker of the House of Representatives for relief of Colonel Marshall from this disallowance of \$33 be renewed.

Respectfully,

The SECRETARY OF WAR.

C. F. HUMPHREY,
Quartermaster-General, U. S. Army.

[First indorsement.]

OFFICE OF THE CHIEF OF STAFF,
Washington, December 17, 1903.

Respectfully returned to the Secretary of War, recommending that the recommendation made by the Secretary of War to the Speaker of the House of Representatives January 13, 1902, be renewed.

S. B. M. YOUNG,
Lieutenant-General, Chief of Staff.

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TREASURY DEPARTMENT,
AUDITOR FOR WAR DEPARTMENT,
February 19, 1901.

In settling accounts of Colonel Marshall for fiscal year 1894, \$33 is found due the United States on account voucher 7, abstract B, July, 1893.

After weighing all the evidence and circumstances of the case it has been decided that there is no authority under which amount can be passed to credit.

No relief but an act of Congress, and if this can be procured in reasonable time it will be satisfactory; otherwise amount must be refunded to United States.

A true copy.

J. M. MARSHALL,
Assistant Quartermaster-General, U. S. Army.

[First indorsement.]

CHIEF QUARTERMASTER'S OFFICE,
DEPARTMENT OF CALIFORNIA,
San Francisco, Cal., April 1, 1901.

Respectfully forwarded to the Quartermaster-General, United States Army, Washington, D. C., with request that Congress be asked to relieve me from the payment of the disallowance referred to within. The expenditure was made under instructions of the Assistant Secretary of War and the Quartermaster-General (copy inclosed). The services were performed under direction of the United States district attorney, E. D. Weed, who "O. K.'d" the bill.

J. M. MARSHALL,
Assistant Quartermaster-General, U. S. Army, Chief Quartermaster.

WASHINGTON, D. C., *January 10, 1903.*

Auditor War Department states, in settling Colonel Marshall's accounts for fiscal year 1894, there was found due the United States a balance of \$33, as per difference sheet No. 95. Item is an amount paid on voucher No. 7, abstract B, July, 1893, to Charles S. Muffy for services in preparing abstract of title of land selected as a site for a military post near Helena, Mont. Payment was disallowed November 3, 1894, under act of Congress approved March 2, 1869 (25 Stats., p. 941). Amount should be returned to Treasury without further delay, and if not done within thirty days from date it will be his duty to report the case to the Paymaster-General with request that amount be withheld from Colonel Marshall's pay.

A true copy.

J. M. MARSHALL,
Assistant Quartermaster-General, U. S. Army.

[First indorsement.]

WAR DEPARTMENT,
DEPOT QUARTERMASTER'S OFFICE,
Jeffersonville, Ind., January 19, 1903.

Respectfully forwarded to the Quartermaster-General of the Army, Washington, D. C., with request that I be informed what action has been taken on my request of April 1, 1901 (copy of indorsement inclosed).

J. M. MARSHALL,
Assistant Quartermaster-General, U. S. Army.

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TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR THE WAR DEPARTMENT,
Washington, May 1, 1903.

SIR: Referring to my letter of January 10, 1903, relative to a balance of \$33 standing against you on the books of the Treasury for the fiscal year 1894, being the amount paid on your voucher No. 7, B, July, 1893, and disallowed November 3, 1894, and in which I requested that the amount be returned to the Treasury within thirty days from that date, and also to your letter of February 2, 1903, in which you asked a suspension of action until Congress had taken definite action in the case, and also to my letter of February 5, 1903, suspending action until the adjournment of the session of Congress then being held. I have now to renew my request that the amount be returned to the Treasury within thirty days from this date, failing in which it will become my duty to request the Paymaster-General to withhold the amount from your pay.

Respectfully,

F. E. RITTMAN, *Auditor.*

J. M. MARSHALL,
*Colonel, and Assistant Quartermaster-General,
U. S. Army, Philadelphia, Pa.*

[First indorsement.]

DEPOT QUARTERMASTER'S DEPARTMENT,
Philadelphia, Pa., May 5, 1903.

Respectfully forwarded to the Quartermaster-General of the Army, with the request that the protection of the Secretary of War be invoked in my behalf. This stoppage is believed to be most unjust.

Owing to a recent change of station, I can not now find all the papers relating to the matter, but the circumstances were as follows:

I was ordered by the Quartermaster-General or the Assistant Secretary of War, or both, to have prepared an abstract of title of land selected for the military post subsequently named Fort Harrison. Under the advice of the United States district attorney, E. D. Weed, I had the abstract made by Mr. Charles S. Muffy, an abstracter, who made the abstract under the supervision of the district attorney. No question has been raised as to the amount paid for the services, \$33, which I believed and now believe, was reasonable and usual.

Attention is invited to a brief of letter of the Auditor of the War Department of January 19, 1903, and my indorsement thereon of January 19, 1903, and to the inclosure referred to in said indorsement. In reply to my indorsement the Quartermaster-General informed me that the matter was in the hands of the Committee on Claims of the House of Representatives, if I remember rightly, but I have not that letter at hand.

As was fully explained to the Auditor by me, when the suspension was made, the land for the post site was donated to the United States, and payment for the services of the abstracter could not be well demanded of the donors. At any rate, no such instructions were included in my orders to have the abstract made.

The amount is small, but I do not believe that I am called upon to make even a small donation to the United States, and if I pay it as demanded by the Auditor I can never hope to recover it except through the Court of Claims, which, of course, would cost much more than the amount involved.

J. M. MARSHALL,
Assistant Quartermaster-General, U. S. Army,
Depot Quartermaster.

[Second indorsement.]

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, June 6, 1903.

Respectfully forwarded to the Auditor for the War Department, inviting attention to the statements of Colonel Marshall contained in the preceding indorsement.

On January 13, 1902, the Secretary of War forwarded to the Speaker of the House of Representatives papers pertaining to this matter, and recommended, in concurrence with the views of this office and the known circumstances of the case, that appropriate legislation be enacted for the relief of Colonel Marshall from this disallowance of \$33.

The communication was referred to the Committee on Claims and ordered to be printed, as evidenced by Public Document No. 261, Fifty-seventh Congress, first session, and no further action has at yet been taken on the claim, so far as is known to this office.

In view of the above, it is requested that the contemplated request for the withholding of the amount in question from the pay of Colonel Marshall be deferred until the expiration of the coming session of Congress, at least, and prior to its assembly this office will request the Secretary of War to repeat and renew his recommendation for favorable action.

The return of these papers is requested.

C. F. HUMPHREY,
Quartermaster-General, U. S. Army.

[Third indorsement.]

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR WAR DEPARTMENT,
June 11, 1903.

Respectfully returned to the Quartermaster-General U. S. Army, with the information that in view of all the circumstances, no further action looking to the stoppage of \$33 from the pay of Col. J. M. Marshall will be taken by this Office until after the adjournment of the first session of the Fifty-eighth Congress.

F. E. RITTMAN, Auditor.

[Fourth indorsement.]

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, June 20, 1903.

Respectfully returned, by direction of the Quartermaster-General, to Col. J. M. Marshall, Assistant Quartermaster-General U. S. Army, depot quartermaster, Philadelphia, Pa., inviting attention to the second and third indorsements hereon.

In view of the statement of the Auditor for the War Department, that no further action looking to the stoppage of the amount of \$33 in question would be taken until after the adjournment or the approaching session of Congress, it is suggested that shortly before the date of its assemblage, you make request of the Secretary of War, through this office, that the former recommendation of January 13, 1902, to Congress for your relief be renewed and supplemented.

CHAUNCEY D. BAKER,
Captain and Quartermaster, U. S. Army.

[Fifth indorsement.]

DEPOT QUARTERMASTER'S DEPARTMENT,
Philadelphia, Pa., November 20, 1903.

Respectfully returned to the Quartermaster-General of the Army with request that the Secretary of War be asked to renew his recommendation of January 13, 1902, to Congress for my relief. Attention is invited to the first indorsement hereon.

J. M. MARSHALL,
Assistant Quartermaster-General U. S. Army, Depot Quartermaster.



